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### Title 55 Chapter 11-17: Detention Schools to Manpower - 1974

Utah Code Annotated

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commitment, order, decree or judgment made before the effective date of this act, nor the status, rights, or duties of any person under such adjudication, commitment, order, decree, or judgment; and any cases pending in the juvenile courts on the effective date of this act shall be heard and disposed of in accordance with the law in effect prior to said date; provided, however, that any supplementary proceedings or actions with respect to a child under the continuing jurisdiction of the juvenile court on the effective date of this act shall be governed by the provisions of this act."

#### Separability Clause.

Section 63 of Laws 1965, ch. 165 provided: "The provisions of this act shall

be severable; and if any of its provisions shall be held invalid, the validity of the remaining provisions shall not be affected thereby."

#### Appropriation.

Section 64 of Laws 1965, ch. 165 provided: "There are hereby appropriated such funds as shall be provided by the legislature for expenses of the juvenile court to carry out the purposes of this act."

#### Effective Date.

Section 66 of Laws 1965, ch. 165 provided: "This act shall take effect on July 1, 1965, except that sections 7 and 8 [55-10-69 and 55-10-70] of this act shall take effect on May 15, 1965."

## CHAPTER 11

### DETENTION SCHOOLS

- Section 55-11-1. Establishment—Superintendent.  
 55-11-2. Curriculum—Teachers.  
 55-11-3. Commitment from one county to another—Costs.  
 55-11-4. Superintendent—Duties and salary.  
 55-11-5. Boards of education to supply books.  
 55-11-6. Building for detention school.  
 55-11-7. Cities to contribute to support.  
 55-11-8. Detention school fund.

**55-11-1. Establishment—Superintendent.**—Upon recommendation of the juvenile court commission, the board of county commissioners of each county containing cities of the first or the second class shall, and in all other counties may, establish detention schools, one for boys and one for girls, not connected with any jail, which shall be in charge of a superintendent to be appointed by the county commissioners upon recommendation from the juvenile court having jurisdiction in the county where such schools shall be established. It shall be the duty of the county commissioners to approve or disapprove the recommendation within twenty days after the submission thereof; such recommendation shall be considered approved and the superintendent deemed appointed in case the county commissioners shall fail within said time to take any action thereon. The employees of such detention school shall be appointed in the same manner as the superintendent.

**History:** L. 1907, ch. 144, § 1; C. L. 1907, § 720x42; L. 1909, ch. 110, § 1; 1911, ch. 54, § 1; C. L. 1917, § 1853; R. S. 1933 & C. 1943, 14-8-1.

#### Cross-References.

Industrial school, 64-6-1 et seq.  
 Special places of detention for children, 55-10-49 et seq.

#### Constitutionality.

This section is constitutional. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

#### Effect on taxing power.

This section is not an interference with taxing power of the cities. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

**Wisdom of legislation.**

The wisdom of this law is for the legislature, and the courts will not interfere with its determination. *Salt Lake County v. Salt Lake City*, 42 U. 548, 134 P. 560.

**Collateral References.**

Infants  $\Rightarrow$  13.  
43 C.J.S. Infants § 13.

**55-11-2. Curriculum—Teachers.**—There shall be provided in each detention school instruction in branches of education similar to those given in the public schools of the city and county up to and including the eighth grade, and in addition thereto manual training and arts for boys and domestic science and arts for girls. Such schools shall be supplied with all necessary teachers and help, and convenient facilities for the care of inmates thereof; provided, that in lieu of teaching said branches of education at detention schools, the superintendents thereof, by and with the consent of the juvenile court commission, may make the necessary arrangements with the proper school board and send the inmates of detention schools to the nearest or most convenient public schools.

**History:** L. 1907, ch 144, § 1; C. L. 1907, § 720x42; L. 1909, ch. 110, § 1; 1911, ch. 54, § 1; C. L. 1917, § 1853; R. S. 1933 & C. 1943, 14-8-2.

**Collateral References.**

Infants  $\Rightarrow$  13.  
43 C.J.S. Infants § 13.

**55-11-3. Commitment from one county to another—Costs.**—In any case where it becomes necessary for any juvenile court to order a delinquent child, not residing in a county wherein there is established a detention school, to a detention school in another county, the county commissioners of the county maintaining a detention school may charge the county from which such delinquent child is sent a reasonable sum, not to exceed the actual cost of the support and maintenance of such child.

**History:** L. 1907, ch. 144, § 2; C. L. 1907, § 720x43; L. 1909, ch. 110, § 1; C. L. 1917, § 1854; L. 1927, ch. 13, § 1; R. S. 1933 & C. 1943, 14-8-3

**Collateral References.**

Infants  $\Rightarrow$  13.  
43 C.J.S. Infants § 13.

**55-11-4. Superintendent—Duties and salary.**—The superintendent shall keep a record of such children and such other information as may be required by the juvenile court or the county commissioners. The salary of the superintendent shall be fixed by the county commissioners, but shall not exceed \$1,200 per year. The salaries of other employees shall be fixed by the county commissioners. The salary of the superintendent and other employees shall be paid out of the general funds of the county.

**History:** L. 1907, ch. 144, § 3; C. L. 1907, § 720x44; C. L. 1917, § 1855; R. S. 1933 & C. 1943, 14-8-4.

**Collateral References.**

Infants  $\Rightarrow$  13.  
43 C.J.S. Infants § 13.

**55-11-5. Boards of education to supply books.**—When any child is sent to a detention school by order of the juvenile court, the board of education of the school district where the child resides shall provide such child with the proper schoolbooks and supplies in the same manner as if the child were attending the regular school. Such child shall be permitted to

take such books and supplies with him to the detention school, and shall return them to the school he attended when his period of detention shall terminate. While the child is in the detention school, the school shall be held responsible for the books and supplies.

**History:** L. 1907, ch. 144, § 4; C. L. 1907, § 720x45; C. L. 1917, § 1856; R. S. 1933 & C. 1943, 14-8-5.

**Collateral References.**  
 Infants ⇨ 13.  
 43 C.J.S. Infants § 13.

**55-11-6. Building for detention school.**—The county commissioners may secure by rental or purchase a building which shall be known as the detention school, or any other name which may designate the place as a school. The building shall be so arranged, furnished and maintained that, as near as practicable for their safe custody, the inmates shall be cared for as in a family home and public school.

**History:** L. 1907, ch. 144, § 5; C. L. 1907, § 720x46; C. L. 1917, § 1857; R. S. 1933 & C. 1943, 14-8-6.

**Collateral References.**  
 Infants ⇨ 13.  
 43 C.J.S. Infants § 13.

**55-11-7. Cities to contribute to support.**—The county establishing and maintaining a detention school shall be entitled to recover from the cities of the first and of the second class situated in said county such sum for the care, support and maintenance of each child from such cities as may be reasonable therefor, and in no case shall such sum be less than the per capita monthly or yearly amount of such expense in the detention school in which the child is committed, or the actual expense incurred by the county for the care and maintenance of such child. Said amounts paid by the cities of the first and of the second class for the care and maintenance of children sent to the detention school shall be paid monthly.

**History:** L. 1907, ch. 144, § 6; C. L. 1907, § 720x47; C. L. 1917, § 1858; R. S. 1933 & C. 1943, 14-8-7.

**Effect on taxing power.**  
 This section is not an interference with taxing powers of the cities. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

**Constitutionality.**

This section does not violate Const. Art. II, § 4. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

**Collateral References.**  
 Infants ⇨ 13.  
 43 C.J.S. Infants § 13.

**55-11-8. Detention school fund.**—The county commissioners of each county establishing a detention school shall set aside an amount from the general fund of the county, to be known as the detention school fund. All money collected from cities of the first and of the second class and from parents or guardians for the care and maintenance of children in the detention school shall be placed to the credit of such special fund. The expenses of any child residing in cities of the first or of the second class cared for in a detention school shall be paid out of the general fund of the city.

**History:** L. 1907, ch. 144, § 7; C. L. 1907, § 720x48; C. L. 1917, § 1859; R. S. 1933 & C. 1943, 14-8-8.

**Collateral References.**  
 Infants ⇨ 13.  
 43 C.J.S. Infants § 13.



## CHAPTER 12

## INTERSTATE COMPACT ON JUVENILES

Section	55-12-1.	Execution of compact.
	55-12-2.	Juvenile compact administrator.
	55-12-3.	Supplementary agreements.
	55-12-4.	Financial arrangements.
	55-12-5.	Responsibility of parents.
	55-12-6.	Responsibilities of state departments, agencies and officers.

**55-12-1. Execution of compact.**—The governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

## INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree :

## ARTICLE I—Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The co-operation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) co-operative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake co-operatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent [,] neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to co-operate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

## ARTICLE II—Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

## ARTICLE III—Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the

court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

#### ARTICLE IV—Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the com-

pact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare for such a time not exceeding ninety days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

## ARTICLE V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a

delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state; or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

#### ARTICLE VI—Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

## ARTICLE VII—Co-operative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and now [sic] reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.



## ARTICLE VIII—Responsibility for Costs

(a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

## ARTICLE IX—Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

## ARTICLE X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the co-operative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the co-operating states.

## ARTICLE XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corpo-

ration, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

#### ARTICLE XII—Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### ARTICLE XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

#### ARTICLE XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

#### ARTICLE XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** L. 1955, ch. 113, § 1.

#### **Title of Act.**

An act authorizing and directing the governor to execute a compact on behalf of the state of Utah with any other state or states relating to co-operative supervision of delinquent juveniles on probation and parole, the return, from one state

to another, of delinquent and nondelinquent juveniles who have run away, escaped, or absconded, and authorizing supplementary agreements for the co-operative care, treatment and rehabilitation of delinquent juveniles in institutions located within any state entering into such supplementary agreement.



**Comparable Provisions.**

Other states which have adopted the Interstate Compact on Juveniles include: California, Hawaii, Indiana, Maine, Mis-

souri, New Hampshire, New Jersey, New York, Pennsylvania, Tennessee, Virginia, Washington, and Wisconsin.

**55-12-2. Juvenile compact administrator.**—Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to co-operate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

**History:** L. 1955, ch. 113, § 2.

**55-12-3. Supplementary agreements.**—The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

**History:** L. 1955, ch. 113, § 3.

**55-12-4. Financial arrangements.**—The compact administrator, subject to the approval of the department of finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

**History:** L. 1955, ch. 113, § 4.

**55-12-5. Responsibility of parents.** — The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of its subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided pursuant to any supplementary agreement herein authorized, or for care pending the return of such juvenile to this state.

**History:** L. 1955, ch. 113, § 5.

**55-12-6. Responsibilities of state departments, agencies and officers.**—The courts, departments, agencies and officers of this state and its sub-

divisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

History: L. 1955, ch. 113, § 6.

## CHAPTER 13

### ALCOHOLISM

(Repealed by Laws 1971, ch. 168, § 10)

#### 55-13-1. Repealed.

##### Repeal.

Section 55-13-1 (L. 1967, ch. 174, § 22), relating to the committee on alcoholism,

was repealed by Laws 1971, ch. 168, § 10. For present provisions, see 63-43-1 et seq.

#### 55-13-1.5. Repealed by implication.

##### Compiler's Notes.

Section 55-13-1.5 (L. 1967, ch. 174, § 23), relating to the committee on alcoholism,

apparently is repealed by implication by Laws 1971, ch. 168, § 10.

#### 55-13-2 to 55-13-7. Repealed.

##### Repeal.

Sections 55-13-2 to 55-13-7 (L. 1957, ch. 112, §§ 3 to 8; 1967, ch. 174, §§ 24 to 27; 1969, ch. 197, §§ 95, 96), relating to

the committee on alcoholism, were repealed by Laws 1971, ch. 168, § 10. For present provisions, see 63-43-1 et seq.

## CHAPTER 14

### COMMITTEE ON CHILDREN AND YOUTH

(Repealed by Laws 1969, ch. 197, § 187)

#### 55-14-1 to 55-14-6. Repealed.

##### Repeal.

Sections 55-14-1 to 55-14-6 (L. 1961, ch. 128, §§ 2 to 6; 1967, ch. 174, §§ 73 to 75),

relating to committee on children and youth, were repealed by Laws 1969, ch. 197, § 187.

## CHAPTER 15

### PUBLIC ASSISTANCE ACT OF 1961

Section 55-15-1 to 55-15-29. Repealed.

55-15-30. Lien provisions.

55-15-31. Repealed.

55-15-32. Assistance not assignable—Exemption from legal process or bankruptcy or insolvency law.

55-15-33. Repealed.

55-15-34. Charges or fees for representing applicants.

55-15-35 to 55-15-38. Repealed.

55-15-39. Short title.

**55-15-1. Repealed.****Repeal.**

Section 55-15-1 (L. 1961, ch. 126, § 1; 1967, ch. 174, § 45; 1969, ch. 197, § 97), relating to definitions in the Public Assist-

ance Act of 1961, was repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-2 and 55-15b-2.

**55-15-2. Repealed.****Repeal.**

Section 55-15-2 (L. 1961, ch. 126, § 2), relating to creation and powers of state

department of public welfare, was repealed by L. 1967, ch. 174, § 162. For present provisions, see 55-15a-4 and 55-15b-3.

**55-15-2.1 to 55-15-3.2. Repealed.****Repeal.**

Sections 55-15-2.1 to 55-15-3.2 (L. 1967, ch. 174, §§ 38, 39, 44, 46; 1969, ch. 197, §§ 98 to 101), all relating to the board and division of family services and the

director of the division, were repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-1 et seq. and 55-15b-1 et seq.

**55-15-4. Repealed.****Repeal.**

Section 55-15-4 (L. 1961, ch. 126, § 4; 1967, ch. 174, § 40), relating to meetings

and quorum of the board of welfare, was repealed by Laws 1969, ch. 197, § 187.

**55-15-5 to 55-15-14. Repealed.****Repeal.**

Sections 55-15-5 to 55-15-14 (L. 1961, ch. 126, §§ 5 to 14; 1963, ch. 108, § 1; 1965, ch. 109, § 1; 1965, ch. 110, § 1; 1967, ch. 174, §§ 41 to 43, 47 to 53; 1969, ch. 160, § 1; 1969, ch. 197, §§ 102 to 111; 1971, ch. 132, § 1), relating to powers, duties and responsibilities of the board and

division of family services, acceptance of federal grants and other gifts, grants and devises, sale of property by the division, and access to income tax returns of recipients, were repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-1 et seq. and 55-15b-1 et seq.

**55-15-15. Repealed.****Repeal.**

Section 55-15-15 (L. 1961, ch. 126, § 15; 1967, ch. 174, § 54), relating to the duty

of the legislative council to serve as advisory council to the board of welfare, was repealed by Laws 1969, ch. 197, § 187.

**55-15-16 to 55-15-29. Repealed.****Repeal.**

Sections 55-15-16 to 55-15-29 (L. 1961, ch. 126, §§ 16 to 23, 25 to 29; 1965, ch. 110, § 1; 1967, ch. 174, §§ 55 to 62, 64 to 67; 1969, ch. 160, §§ 2, 3, 5, 6; 1969, ch. 197, §§ 112 to 118, 120; 1971, ch. 137, § 1; 1972, ch. 19, § 1), relating to personnel

training programs, county departments and boards of public welfare, public assistance payments and procedures, were repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-1 et seq. and 55-15b-1 et seq.

**55-15-30. Lien provisions.**—Lien provisions applicable to providing public assistance shall be as follows:

(1) In addition to other eligibility requirements as provided in this act, the following provisions shall apply in establishing eligibility:

(a) In the old-age assistance program the division shall require that as a condition precedent to granting old-age assistance, all real property or interests in real property belonging to an applicant for or recipient of old-age assistance, or his or her spouse, or thereafter acquired, shall be pledged to the division as a guarantee for all old-age assistance granted, including, but not limited to, assistance granted under section 55-15-24, except that the costs of assistance granted for medical care and nursing home care, other types of congregate care and similar plans for the care of the physically or mentally ill shall be exempt from the lien.

(b) When it becomes necessary the division is authorized to invest money in the home of an old-age assistance recipient, or recipients of other assistance programs either as payment for taxes, home or lot improvements, or to protect the interest of the state in the property for necessary improvements to make the home habitable, and the division shall take a lien to secure this capital investment; provided, however, that if a recipient has executed a lien in accordance with (a) above, such lien shall guarantee repayment of any amounts granted under this paragraph and an additional lien agreement shall not be required.

Any assistance granted after July 1, 1953 to a spouse of an old-age recipient who is not eligible for old-age assistance but who participates in the assistance granted to the family is recoverable in the same manner as old-age assistance granted to the old-age recipient.

To evidence a pledge, the division shall require each old-age assistance applicant or recipient and his or her spouse to enter into an agreement in a form approved by the division duly acknowledged so as to entitle it to be filed on record in the office of the county recorder by which the old-age assistance applicant or recipient and his or her spouse shall acknowledge and agree that all real property and interests in real property have been assigned as security for the reimbursement of all assistance thereafter received by him or her and his or her spouse; provided however that in the event the old-age assistance applicant or recipient is living apart from his or her spouse or unusual circumstances exist preventing him or her from obtaining his or her joinder, the lien agreement signed by the old-age assistance applicant or recipient alone may be accepted.

At the time of the settlement of a lien given in accordance with paragraph (1) (a), there shall be allowed a cash exemption of \$1,000, less any assistance granted under the provisions of paragraph (1) (b) of this section, to be deducted from the market or appraised value of the real property. When it is necessary to sell property or to settle an estate the division of family services may grant reasonable costs of sale and settlement of an estate in the following manner:

When the total cost of probate, including the sale of property when it is sold, and the cost of burial and last illness do not exceed \$1,000, the exemption of \$1,000 shall be the total exemption and this shall be the only amount deductible from the market or appraised value of the property.

When \$1,000 is not sufficient to pay for the costs of probate, the following expenditures are authorized:

1. Cost of funeral expenses up to but not to exceed \$750;
2. Cost of terminal illness provided the division or the social security administration has not paid this expense through public medical aid programs;
3. Realty fees, if any;
4. Cost of revenue stamps, if any;
5. Cost of abstract or title insurance, whichever is the least costly;
6. Attorney's fees not to exceed the recommended fee established by the Utah bar association. When an attorney sells the property in an estate he is probating he shall be entitled only to a real estate fee or an attorney's fee whichever is the lesser amount, and not to both;
7. Administrator's fee not to exceed \$150;
8. Court costs;
9. Delinquent taxes, if any.

The above listed amounts are to be considered only when the total costs of probate exceed \$1,000, and are to be deducted from the market or appraised value of the property in lieu of the exemption of \$1,000 and are not in addition to \$1,000 exemption.

When both husband and/or wife are recipients and one or both of them own an interest in real property, the lien shall attach to the interests of both for the reimbursement of assistance received by either or both spouses and but one exemption as provided herein shall be allowed.

When a lien is executed by one party on property owned in joint tenancy with full rights of survivorship, the execution of the lien severs the joint tenancy and a tenancy in common results in so far as a division of family services lien is affected, except that this provision shall not apply when recipients are husband and wife. When recipients are husband and wife and own property in joint tenancy with full rights of survivorship the execution of a lien shall not sever the joint tenancy in so far as a division of family services lien might be affected and settlement of the lien shall be in accordance with the provisions of the above paragraph.

(c) In all programs of assistance other than old age, when an applicant owns personal or real property in excess of the limitations of section 55-15-22 of this act, any applicant may, by the execution of a lien, or a chattel mortgage, be granted assistance under this act without disposing of any such property, if he shall otherwise qualify for assistance. Assistance so granted shall include regular monthly public assistance grants and shall include assistance granted under sections 55-15-24 and 55-15-30(1)(b).

The amount of the lien given under the provisions of paragraph 55-15-30(1)(b) shall be the total amount of assistance granted up to the market or appraised value of the real or personal property less the amount of the legal maximum property limitations from the execution of the lien until settlement thereof. There shall be no exemption of any kind or nature allowed against real or personal property liens granted under the provisions of paragraph 55-15-30(1)(b) except assistance in the form of medi-

cal care, and nursing home care, other types of congregate care and similar plans for the physically and mentally ill.

When it is necessary to sell property or to settle an estate, the division is authorized to approve payment of the reasonable costs of sale and settlement of an estate in accordance with the provisions of paragraph (1)(b) above.

The amount of reimbursement of all liens now held by the division, as well as all liens subsequently acquired, shall be determined on the basis of the above-described formulas when they become due and payable.

All lien agreements shall be recorded with the county recorder of the county in which the real property is located and the recording of the same shall have the same effect as a lien by judgment on any real property in which the applicant or recipient has any title or interest. All such real property including but not limited to joint tenancy interests, shall from the time of recording of such agreement be and become charged with a lien for all assistance received by the recipient or his or her spouse as herein provided, which lien shall have priority over all unrecorded encumbrances. No fees or costs shall be paid for such recording.

(2) Liens shall become due and payable, and the division shall seek collections of each lien now held or taken:

(a) When the property to which the lien attaches is transferred to a third party prior to the recipient's death, provided, that if other property is purchased by the recipient to be used by him as a home, the division may transfer the amount of the lien from the property sold to the property purchased.

(b) Upon the death of the recipient and his or her spouse, if any. When the heir or heirs, devisee or devisees of the property are also recipients of public assistance or when other hardship circumstances exist the division may postpone settlement of the lien, if such action will be for the best interests of the recipient or recipients and the state.

(c) When a recipient becomes financially able to pay off the lien or voluntarily offers to settle the lien.

(d) When property subject to a lien is no longer used by a recipient and appears to be abandoned.

(3) When a lien becomes due and payable, a certificate in a form approved by the division certifying as to the amount of assistance given the recipient and the amount of the lien shall be mailed to the recipient or recipients, heirs or administrators of the estate and the same shall be allowed, approved, filed and paid as a preferred claim as provided in section 75-9-22(2) in the administration of the estate of the decedent. The amount so certified shall constitute the entire claim as of the date of such certificate against the real or personal property of the recipient, or his or her spouse, and any person dealing with the recipient, or heirs or administrators, may rely upon such certificate as evidencing the amount of the existing lien against such real or personal property. Said amount, however, will be enlarged by accruing interest until time of final settlement at the

rate of six per cent per annum, commencing six months after the lien becomes due and payable, or at the termination of probate proceedings, whichever occurs last.

If the heirs are unable to make a lump-sum settlement of the lien at the time it becomes due and payable, the division may permit settlement based upon periodic repayments in a manner prescribed by the division with interest as stated in the above paragraph.

The federal government shall be entitled to share in the net collections recovered in substantially the same proportion as federal funds were used to match state funds in the assistance grants paid in any such case, if required as a condition to federal participation. All sums so recovered, except those credited to the federal government, shall be retained by the division for use in its authorized activities.

The division shall be empowered to accept voluntary conveyance of real or personal property in satisfaction of its interest therein. All property acquired by the division under the provisions of this act may be disposed of by public or private sale under such rules and regulations as may be prescribed by the division. The division is authorized to execute and deliver any and all documents necessary to convey title to any and all such property as may have come into its possession to a purchaser of such property as though the division constituted a corporate entity.

(4) Any real property acquired by the division, either by foreclosure or voluntary conveyance, shall be tax exempt, so long as it is so held.

**History:** L. 1961, ch. 126, § 30; 1967, ch. 174, § 68; 1969, ch. 160, § 7.

#### Compiler's Notes.

Sections 55-15-22 and 55-15-24, cited in this section, were repealed by Laws 1973, ch. 122, § 29.

The 1967 amendment substituted "division" for "department" throughout the section; substituted "board" for "department" in the third paragraph of subd. (1) (b) and in the fourth paragraph of subsec. (3); substituted "75-9-22 (2)" for an erroneous reference to "79-9-22 (2)" in subsec. (3); and made minor changes in style.

The 1969 amendment substituted "providing" for "rendering" in the first sentence; in subd. (1)(a), rewrote the last clause which read "except for assistance granted as medical care, exclusive of nursing home care, either as deposits into a pool fund or directly to a vendor, in the manner hereafter described"; in the first paragraph of subd. (1)(b), rewrote the first clause which read "When it becomes necessary for the division to invest money in the home of a recipient," and substituted "shall take a lien" for "may take a lien"; in the second paragraph of subd. (1)(b), deleted "or other dependent" after "spouse" and "unit" after "family"; in the third paragraph of subd. (1)(b), in-

serted "old-age assistance" before "applicant or recipient," substituted "all real property and interest in real property" for "such property" and deleted "under such regulations as the board may prescribe" after "may be accepted"; in the fourth paragraph of subd. (1)(b), substituted "the real property" for "such property," inserted "to sell property or" after "necessary," "of family services" after "division" and substituted "the following manner:" for "such amounts as may appear necessary and proper"; in subd. (1)(b), inserted the fifth, sixth and eighth paragraphs; in the first paragraph of subd. (1)(c), substituted "when an applicant owns personal or real property" for "in the event of the ownership of real property," inserted "or a chattel mortgage," and rewrote the last sentence which read "Assistance so granted may include regular monthly public assistance grants, assistance granted under section 55-15-24, and taxes and home and lot improvements"; in the second paragraph of subd. (1)(c), substituted "paragraph 55-15-30(1)(b)" for "foregoing paragraph," inserted the wording after "appraised value of" for "the real property from the execution of the lien until foreclosure thereof" and rewrote the last sentence which read "There shall be no exemption of any kind or nature allowed against liens granted under the



provisions of this paragraph except assistance in the form of medical care, either as a deposit in a pooled fund or as payments to vendors"; in the third paragraph of subd. (1)(c), inserted "to sell property or" after "necessary"; in the last paragraph of subd. (1)(c), deleted "or dependents" after "spouse"; added clause (d) to subd. (2); in the first paragraph of subd. (3), substituted "real or personal property" for "real property," inserted "or heirs or administrators" after "recipient," substituted "six months" for "ninety days" and inserted "or at the termination of probate proceedings, whichever occurs last"; in the last paragraph of subd. (3), substituted "real or personal property" for "real property" in the first sentence, deleted "real" before "property" and substituted "division" for "board" in the second sentence; and made minor changes in punctuation and phraseology.

#### Cross-Reference.

Office of assistance payments responsible for collections, 55-15a-28.

#### Statute of limitations.

Written lien granted by aged couple in

order to qualify for old-age assistance and intended to secure reimbursement of moneys paid by division of public welfare was not "obligation created by statute" subject to three-year statute of limitations but was rather an "obligation based upon an instrument in writing" and governed by six-year statute of limitations; since division had no duty to foreclose on lien while it was still making payments to survivor, unrecorded transfer of land did not commence statute running against it notwithstanding claim of transferee of deed that foreclosure proceedings should have been initiated at time deed was received. *Juab County Dept. of Public Welfare v. Summers*, 19 U. (2d) 49, 426 P. 2d 1.

#### Collateral References.

Social Security and Public Welfare 31, 96.

81 C.J.S. Social Security and Public Welfare §§ 8, 31.

Right of public to reimbursement from recipient, his estate or relatives of old age assistance payments, 29 A. L. R. 2d 731.

### DECISIONS UNDER FORMER LAW

#### Constitutionality.

Fact that Laws 1947, ch. 89, § 19, as amended by Laws 1948 (1st S.S.), ch. 9, required wife to become a party to agreement pledging property to secure reimbursement of assistance if she was living with husband but permitted agreement signed by husband alone if he was living apart from wife and she refused to sign did not render it unconstitutional as discriminating between different classes of husbands and wives. *Wallberg v. Utah Public Welfare Comm.*, 115 U. 242, 203 P. 2d 935.

Laws 1947, ch. 89, § 19, as amended by Laws 1948 (1st S. S.), ch. 9, was a general law and did not come within the purview of constitutional provision forbidding special laws changing descent and distribution. (Const. Art. VI, § 26, par. 10.) *Wallberg v. Utah Public Welfare Comm.*, 115 U. 242, 203 P. 2d 935.

Laws 1947, ch. 89, § 19, as amended by Laws 1948 (1st S. S.), ch. 9, was constitutional in so far as classification was con-

cerned, notwithstanding that it differentiated between real property owners and nonowners, since there was a reasonable basis for the differentiation. *Wallberg v. Utah Public Welfare Comm.*, 115 U. 242, 203 P. 2d 935.

Laws 1947, ch. 89, § 19, as amended by Laws 1948 (1st S. S.), ch. 9, was not unconstitutional on ground that it is a loan of credit forbidden by Art. VI, § 31, Utah Constitution. *Wallberg v. Utah Public Welfare Comm.*, 115 U. 242, 203 P. 2d 935.

#### Interest on settlement.

Where recipient of old-age assistance died leaving real property, and his personal representative or heirs did not make a lump-sum settlement of the statutory lien against such property within ninety days after the date of death, 6% interest was chargeable against the \$1,000 exemption allowable where settlement was made within that period. *Olson v. Edmonds*, 9 U. (2d) 56, 337 P. 2d 431.

### 55-15-31. Repealed.

#### Repeal.

Section 55-15-31 (L. 1961, ch. 126, § 31; 1967, ch. 174, § 69; 1969, ch. 160, § 8), relating to fraud in obtaining public assist-

ance, was repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-24 and 55-15b-17.



**55-15-32. Assistance not assignable—Exemption from legal process or bankruptcy or insolvency law.**—Public assistance provided under this act shall not be assignable, at law or in equity, and none of the money paid or payable under this act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

**History:** L. 1961, ch. 126, § 32.

### **55-15-33. Repealed.**

#### **Repeal.**

Section 55-15-33 (L. 1961, ch. 126, § 33; 1967, ch. 174, § 70; 1969, ch. 197, § 121),

relating to appeals, was repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-25 and 55-15b-18.

**55-15-34. Charges or fees for representing applicants.**—No person shall make any charge or receive any fee for representing an applicant or recipient of public assistance in any proceeding hereunder, except in criminal proceedings brought pursuant to section 55-15-31 of this act or with respect to any application, whether such fee or charge is to be paid by the applicant or recipient or any other person, which fee is in excess of an amount to be determined by the court or body before whom an applicant or recipient has been represented.

**History:** L. 1961, ch. 126, § 34.

#### **Compiler's Notes.**

Section 55-15-31, cited in this section, was repealed by Laws 1973, ch. 122, § 29.

### **55-15-35, 55-15-36. Repealed.**

#### **Repeal.**

Sections 55-15-35 and 55-15-36 (L. 1961, ch. 126, §§ 35, 36; 1967, ch. 174, § 71; 1969, ch. 160, § 9; 1969, ch. 197, § 122; 1971, ch. 136, § 1), relating to confidential

information concerning recipients of assistance and enforcement of the act, were repealed by L. 1973, ch. 122, § 29. For present provisions, see 55-15a-26 and 55-15b-19.

### **55-15-37, 55-15-38. Repealed.**

#### **Repeal.**

Sections 55-15-37 and 55-15-38 (L. 1961, ch. 126, §§ 39, 40), relating to terms and

duties of commissioners under 1961 act and providing an appropriation, were repealed by Laws 1967, ch. 174, § 162.

**55-15-39. Short title.**—This act shall be known and may be cited as "The Public Assistance Act of 1961."

**History:** L. 1961, ch. 126, § 41.

#### **Separability Clause.**

Section 37 of Laws 1961, ch. 126 provided: "If any section or clause of this act shall be held contrary to the Constitution of the state of Utah, the unaffected provisions shall remain in full force and effect as completely as if the part held unconstitutional had not been included herein."

#### **Repealing Clause.**

Section 38 of Laws 1961, ch. 126 provided: "Chapters 55-1 and 55-2, as amended, Utah Code Annotated 1953, and chapters 89 and 90, Laws of Utah 1953, and chapters 110 and 111, Laws of Utah 1955, chapters 108 and 109, Laws of Utah 1957, chapter 95, Laws of Utah 1959, and any other acts or parts of acts in conflict herewith, are repealed."

## CHAPTER 15a

## PUBLIC ASSISTANCE—ASSISTANCE PAYMENTS ADMINISTRATION

- Section 55-15a-1. Purpose of act—"Person in need" defined.  
 55-15a-2. Definition of terms.  
 55-15a-3. Powers and duties of department of social services—Rules and regulations—Medical assistance standards and policies.  
 55-15a-4. District and county advisory boards—Creation—Appointment of members—Purpose—Expenses.  
 55-15a-5. Office of assistance payments—Creation—Powers and authority.  
 55-15a-6. Duties of office.  
 55-15a-7. Contracts for assistance payments, food stamps or medical services.  
 55-15a-8. Gifts, grants and devises—Acceptance by office.  
 55-15a-9. Real or personal property—Sale by office.  
 55-15a-10. Income tax returns—Access to information by office.  
 55-15a-11. Personnel training programs—Co-operation with federal government.  
 55-15a-12. Power of office to act as trustee, guardian, receiver or other fiduciary.  
 55-15a-13. Director of office—Appointment—Qualifications—Establishment of state, district, or local offices—Employment of staff—Administration of oaths.  
 55-15a-14. Federal grants.  
 55-15a-15. Property ownership disqualifying applicant or recipient from assistance—Limits.  
 55-15a-16. Applicants or recipients to declare property owned, insurance and income.  
 55-15a-17. Assistance provided—Old-age assistance—Aid to blind—Aid to dependent children—Aid to disabled—General assistance—Aid to transients—Burial expenses.  
 55-15a-18. Determination of assistance grants—Standard budget—Standard grants—Vendor payments—Supplement to annual appropriation—Claims against current appropriation.  
 55-15a-19. Deduction of income and resources.  
 55-15a-20. Payments to legal guardian or other interested individual—Assignment of check in case of death.  
 55-15a-21. Duty of recipient to notify office of income or resources.  
 55-15a-22. Residency.  
 55-15a-23. Discrimination prohibited—Co-operation with civic, governmental and other organizations—Free choice of professional services.  
 55-15a-24. Fraud in obtaining assistance—Penalties for violations—Assignment of alimony or support payments—Use of sums refunded.  
 55-15a-25. Appeals to department—Review and finality of decisions.  
 55-15a-26. Examination of assistance payroll by individuals—Policies, rules and regulations relating to confidential information—Violation a misdemeanor—Statistical studies authorized.  
 55-15a-27. Enforcement of act—Duties of county attorney or attorney general.  
 55-15a-28. Collections under lien provisions—Excess property liens.

**55-15a-1. Purpose of act—"Person in need" defined.**—It is the purpose of this act to provide assistance to any person in Utah in need. A person is in need and entitled to assistance if sufficient resources are not available for his use within the limitations set forth herein and who otherwise qualifies.

**History:** L. 1973, ch. 122, § 1.

**Title of Act.**

An act repealing sections 55-15-1, 55-15-5, 55-15-6, 55-15-7, 55-15-9, 55-15-10, 55-15-12, 55-15-14, 55-15-17, 55-15-18, 55-15-19, 55-15-20, 55-15-21, 55-15-28, 55-15-33 and 55-15-35, Utah Code Annotated

1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; sections 55-15-2.1, 55-15-3, 55-15-3.1 and 55-15-3.2, Utah Code Annotated 1953, as enacted by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; sec-

tion 55-15-8, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 109, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-10.5, Utah Code Annotated 1953, as enacted by chapter 32, Laws of Utah 1971; section 55-15-11(1), Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-11(2), Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-29, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967; section 55-15-13, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 108, Laws of Utah 1963, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-16, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967; sections 55-15-22 and 55-15-23, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah

1969, as amended by chapter 197, Laws of Utah 1969; section 55-15-24, Utah Code Annotated 1953, as enacted by chapter 137, Laws of Utah 1971, as amended by chapter 19, Laws of Utah 1972; section 55-15-25, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 160, Laws of Utah 1969; section 55-15-26, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-27, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-31, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-36, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969, as amended by chapter 136, Laws of Utah 1971; relating to public assistance; providing for creation of an office of assistance payments administration within the department of social services; and providing for the responsibilities and obligations of the assistance office and for persons seeking medical or financial assistance.

#### Collateral References.

Paupers  $\Rightarrow$  1, 2.  
70 C.J.S. Paupers § 1.

#### 55-15a-2. Definition of terms.—As used in this act:

- (1) "Office" means the office of assistance payments administration.
- (2) "Department" means the department of social services.
- (3) "Applicant" means any person who requests assistance under this act.
- (4) "Recipient" means any person receiving assistance under this act.
- (5) "Assistance" means payments made to eligible individuals under this act.

History: L. 1973, ch. 122, § 2.

**55-15a-3. Powers and duties of department of social services—Rules and regulations—Medical assistance standards and policies.**—The department is vested with all policy-making functions, powers, duties, rights and responsibilities granted under this act and is charged with the responsibility of determining and adopting all procedures, rules and regulations necessary to perform the duties and functions conferred upon it. Rules and regulations when adopted are binding upon the office. All rules and regulations shall be printed and made available to the legislature and general public.

The department is authorized to develop standards and administer policies relating to eligibility for medical assistance. Medical assistance furnished an applicant may be limited to particular types of care or services or to payment of part or all costs of care medically determined to be necessary.

The department shall develop policy for the payment of medical claims for indigent persons under unusual or extenuating circumstances and consult community health representatives in developing medical assistance policy and in establishing an appropriate definition of "medically needy."

**History:** L. 1973, ch. 122, § 3.

**Collateral References.**

Paupers 7, 8.

70 C.J.S. Paupers §§ 3, 11.

**55-15a-4. District and county advisory boards—Creation—Appointment of members—Purpose—Expenses.**—The department in consultation with county commissioners shall create district and/or county advisory boards of assistance payments administration and develop and implement rules and regulations governing the number, membership and tenure of such advisory boards. Members of the advisory board shall be appointed by the board of county commissioners for a county advisory board, and by the respective boards of county commissioners if a regional advisory board is created.

The purpose of advisory boards is to obtain advice from community members, including minorities and consumers, and to interpret and explain the duties and operation of the office to the community, review rules and regulations of the department and their application to applicants and recipients, and make recommendation to the department for modification or change of rules and regulations. Such recommendations, when placed in writing before the department, shall be responded to in writing setting forth the reasons for adopting or not adopting the proposed recommendations.

Members of the district and/or county assistance payments administration advisory boards shall be paid all necessary and actual expenses incurred in the performance of their official duties by the office.

**History:** L. 1973, ch. 122, § 4.

**55-15a-5. Office of assistance payments — Creation — Powers and authority.** — There is hereby created the office of assistance payments administration within the department under the direction of the executive director of the department. The office is the assistance payments administration authority of the state and is vested with all rights, duties, powers and responsibilities necessary to administer assistance under this act.

**History:** L. 1973, ch. 122, § 5.

**Cross-Reference.**

Creation of department of social services and boards and divisions within department, 63-35-3.

**55-15a-6. Duties of office.**—The office shall :

(1) Determine eligibility for assistance payments, food stamps, and medical assistance.

(2) Administer all assistance programs.

(3) Co-operate with the federal government in the administration of assistance programs and other assistance payments activities in which the federal government may participate.

(4) Provide for the compilation of necessary or desirable information, statistics and reports relative to assistance payments matters in the state of Utah.

(5) Prepare and submit to the department, the governor and the legislature reports of the operation and administration of the office as required.

(6) Perform any other duties and functions required by law.

History: L. 1973, ch. 122, § 6.

**55-15a-7. Contracts for assistance payments, food stamps or medical services.**—The office is authorized to contract with other public or private agencies to purchase or to provide assistance payments, food stamps or medical services in connection with the programs of the office. Where these programs are used by other state agencies, contracts shall provide that other state agencies transfer the "state seeding funds" to the office in amounts sufficient to satisfy needs of the specified program.

All contracts for the provision or purchase of assistance payments, food stamps, medical service, rates of payment for assistance payments, or medical providers shall be established on the basis of the state's fiscal year and shall remain uniform during the fiscal year in so far as possible. Contract terms shall include provisions for maintenance, administration and service costs.

History: L. 1973, ch. 122, § 7.

**55-15a-8. Gifts, grants and devises—Acceptance by office.**—The office is authorized to receive gifts, grants and devises. Gifts, grants or devises shall be credited to the program which the donor designates and used for the purposes the donor directs, as long as the request conforms to state and federal policy. If a donor makes no special request, the gift, grant or devise shall be used in the best interest of the office.

History: L. 1973, ch. 122, § 8.

**55-15a-9. Real or personal property—Sale by office.**—The office, with the approval of the department and the board of examiners, is authorized to sell any real or personal property owned and not needed by it.

History: L. 1973, ch. 122, § 9.

**55-15a-10. Income tax returns—Access to information by office.**—To determine eligibility for assistance, food stamps and medical assistance or

for patient and relative responsibility for the payment for institutional care, or for any other administrative purpose consistent with this act, the office may have access to any relevant information desired from the income tax returns of assistance recipients and of persons having the duty of support to assistance recipients. This information requested shall be provided by the tax commission on forms furnished by the office.

History: L. 1973, ch. 122, § 10.

**55-15a-11. Personnel training programs—Co-operation with federal government.**—The office with department approval is authorized to co-operate with the federal government in personal [personnel] training programs for more effective and efficient operation of all programs under administration of the office. To this end the office is authorized to receive and expend funds whether from state or federal sources for training or preparing personnel for employment in any program administered by the office as follows:

(1) Grants to public or other nonprofit institutions of higher learning to assist in training persons.

(2) Establish and maintain directly or through grants, fellowships or traineeships for personnel at such institutions with stipends and allowances determined by it.

(3) Establish special courses of study or seminars of short duration for personnel conducted by experts hired on a temporary basis.

History: L. 1973, ch. 122, § 11.

**Compiler's Notes.**

The bracketed word "personnel" was inserted by the compiler.

**55-15a-12. Power of office to act as trustee, guardian, receiver or other fiduciary.**—The office is expressly empowered to act as trustee, guardian, receiver or other fiduciary upon court order at the request of any federal agency where the estate sought to be administered belongs to an assistance recipient or incompetent person subject to the jurisdiction of an agency or institution. The office shall qualify as aforesaid upon accepting to act as a trustee, guardian, receiver or other fiduciary, or when such individual designated by the office to act in such capacity takes such oath of office as may be prescribed by law, without bond, except that a court may in its discretion require a bond in any matter pending before it.

History: L. 1973, ch. 122, § 12.

**55-15a-13. Director of office—Appointment—Qualifications—Establishment of state, district, or local offices—Employment of staff—Administration of oaths.**—The director of the office shall be appointed by the executive director of the department and covered under the state merit system. He shall be the executive and administrative head of the office and have completed a combination of higher education in an accredited college or university and experienced in professional administration totaling at least eight years, with no fewer than four years of college or university study and no fewer than three years of professional administrative experience.

The director may establish any state, district, or local offices deemed necessary to secure the efficient performance of his duties and functions and employ a staff necessary to efficiently administer the office. All staff members shall be under the merit system.

The director has authority to administer oaths.

**History:** L. 1973, ch. 122, § 13.

**55-15a-14. Federal grants.**—The executive director of the department, with the approval of the governor, may bind the state to any executive or legislative provisions promulgated or enacted by the federal government which invites the state to participate in the distribution, disbursement or administration of any fund or service, advanced, offered or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department. Such funds shall be used as provided in section 55-15a-1 and administered by the office. This includes co-operation with the United States Department of Agriculture in the distribution of surplus food commodities or the distribution of food stamps, the United States Office of Economic Opportunity in the administration of Public Law 88-452, the United States Department of Health, Education and Welfare in regard to the administration of health and welfare programs, and any other federal or state agency in the administration of any program which provides training, goods, services, or money for the benefit and welfare of recipients of public assistance and other low income residents.

If a federal legislative or executive provision requires modification or revisions in an eligibility factor established under this act as a condition for participation in goods, services, or money, the department is authorized to modify or change department rules and regulations necessary to qualify for participation.

The office shall comply with all requirements of the Social Security Act and all orders, rules and regulations promulgated thereunder when required as a condition of participation in benefits under the Social Security Act.

**History:** L. 1973, ch. 122, § 14.

**Cross-Reference.**

**Compiler's Notes.**

Federal Assistance Management Program, 63-40-1 et seq.

Public Law 88-452, The Economic Opportunity Act of 1964, is compiled as 42 U.S.C. 2701, 2711 et seq.

**55-15a-15. Property ownership disqualifying applicant or recipient from assistance—Limits.**—Ownership of money or other tangible property or its equivalent in real or personal property shall disqualify an applicant or recipient from receiving assistance if the following limits are exceeded:

(1) A dwelling which the individual occupies as a home, the lot on which the home is located, and the furniture and furnishings therein;

(2) An automobile;

(3) Money or its equivalent in other real or personal property in any combination not exceeding \$750 for an individual living alone or \$1500 for two or more individuals living together as a family unit;



(4) Life insurance policies not exceeding \$1500 in face value. If the face value of a policy exceeds \$1500, the aggregate cash value for an individual living alone shall not exceed \$750 or \$1500 in aggregate cash value for two or more persons living together as a family unit.

(5) Individuals 65 years of age or over, or married couples, one of whom is 65 years of age or older, may create an irrevocable burial trust fund up to but not in excess of \$750 for a single individual or \$1500 for a married recipient and his spouse. Irrevocable burial trust funds are in addition to the maximum limitations in (1), (2), (3), and (4).

(6) Ownership or beneficial interest in any land or account which is held in trust by United States, this state, or in a tribal account.

History: L. 1973, ch. 122, § 15.

**55-15a-16. Applicants or recipients to declare property owned, insurance and income.**—Applicants for assistance or recipients shall execute forms provided by the office describing all property owned, all insurance owned by any members of the immediate family, and all income available before receiving any assistance.

History: L. 1973, ch. 122, § 16.

**55-15a-17. Assistance provided—Old-age assistance—Aid to blind—Aid to dependent children—Aid to disabled—General assistance—Aid to transients—Burial expenses.**—Assistance shall be provided under this act for individuals who qualify as follows:

(1) Persons in need that have attained age 65. Such assistance may be designated as old-age assistance.

(2) Persons in need that have no vision or whose vision is [so] defective that it prevents the performance of ordinary activities. Such assistance may be designated as aid to the blind.

(3) Persons in need, that

(a) are children under the age of 21 or are unborn when established by medical standards and who have been deprived of natural or step-parent support or care, and

(b) are natural or step-parents or relatives who have the custody and control of such needy children.

(4) Persons in need that are permanently and totally disabled. Such assistance may be designated aid to the disabled.

(5) Persons in need that are not receiving direct money grants as old-age assistance, aid to the blind, aid to families with dependent children, or aid to the disabled. Such assistance may be designated general assistance. General assistance may be provided by payment in cash or in kind. The office may, by regulation, limit the grants that are made to general assistance recipients. General assistance may be granted to meet special nonrecurrent needs of recipients of old-age assistance, aid to the blind, aid to families with dependent children, or aid to the disabled.



(6) Persons in need that are transients. Such assistance will be provided and designated under any of the foregoing programs for which they would otherwise qualify.

The office may co-operate with any governmental unit or agency, or any private nonprofit agency in the establishment of work projects in order to provide employment for employable persons.

General assistance may include payment for the reasonable cost of burial for recipients; provided, heirs or relatives are not financially able to assume this expense. However, if the bodies of these persons are unclaimed, the provisions of section 53-31-30 shall be applicable thereto. The office shall fix the costs of a reasonable burial and conditions under which burial expenditures may be made.

History: L. 1973, ch. 122, § 17.

**55-15a-18. Determination of assistance grants — Standard budget — Standard grants—Vendor payments—Supplement to annual appropriation —Claims against current appropriation.**—Assistance grants for or in behalf of any one household in any one month shall be determined as follows:

(1) The office shall develop a standard budget which reflects the minimum needs of assistance households. The standard budget shall be adjusted annually to reflect changes upward or downward in the cost of living and filed with the governor and with the legislative appropriations committee annually. The standard budget is the basis for determination of monthly assistance grants to recipient households for each fiscal year the legislature appropriates funds.

(2) If an annual appropriation is inadequate to cover full household requirements as shown by the standard budget, the office shall make ratable reductions (standard grants) in monthly payments based on the standard budget. The adjustments in monthly payments shall be designed to provide equal monthly payments to recipients throughout the fiscal year.

(3) The office shall define the term "household."

(4) For the purpose of providing assistance to persons subjected to extraordinary problems of living by reason of any special situation, monthly payments may be made within regulations devised to meet these situations.

(5) If federal legislation requires modification in the method of monthly payment to recipients during the fiscal year, or if modifications of the method of monthly payment is directed by a court of law, the office may devise a plan with departmental and executive approval, which conforms to such modification at any time during the fiscal year provided the intent of subsection (1) of this section is observed.

(6) Assistance or medical vendor payments made to providers of services for and in behalf of recipient households shall be based upon pre-determined rates from standards developed by the office in co-operation with providers of service for each type of service purchased by the office. As far as possible, the rates paid for services shall be established in advance of the fiscal year for which funds are to be requested.

(7) Because of the unpredictableness of assistance and medical expenditures, the governor is authorized to supplement the annual appropriation at the close of any fiscal year for medical assistance or assistance payments by deficit spending in an amount not exceeding two per cent of the total work program of federal and state funds allocated for the fiscal year; and the legislature, at its next regular or budget session, shall appropriate any supplemental funds which the governor may have authorized for medical assistance or assistance payments.

(8) Claims for care and services purchased by the office for clients is a claim against the annual appropriation made to the office for medical assistance and assistance payments for the year the service is rendered.

Suppliers of services shall submit billings either to the department or the medical intermediary within thirty days after the end of the fiscal year in which service is concluded. Any other claims received thirty days after the end of the fiscal year shall not be paid unless approved by the board of examiners and the legislature.

Unexpended appropriated funds lapse August 31. Funds dispensed from this account shall be for services rendered prior to June 30.

History: L. 1973, ch. 122, § 18.

#### DECISIONS UNDER FORMER LAW

##### Constitutionality.

Provision of statute whereby the blind had more liberal standards applied in income and property exemptions and whereby no recipients received 100% of actual needs was not invidious discrimination in violation of equal protection and due process clauses of Fourteenth Amendment of United States Constitution. *Utah Welfare Rights Organization v. Lindsay*, 315 F. Supp. 294.

Provision of statute whereby larger families were paid disproportionately smaller percentage of actual need than smaller families was consistent with the Social Security Act and not invidious discrimination in violation of equal protection clause of Fourteenth Amendment of United States Constitution. *Utah Welfare Rights Organization v. Lindsay*, 315 F. Supp. 294.

##### Inconsistent with federal law.

Provision of statute whereby grants calculated on basis of maximums and not increased by amount in direct ratio to increase in cost of living was inconsistent with § 402(a)(23) of the Social Security Act, 42 U.S.C. § 602(c)(22), and state was given opportunity to adopt conforming plan or be restrained from using federal moneys in grants. *Utah Welfare Rights Organization v. Lindsay*, 315 F. Supp. 294.

##### Method of calculating assistance.

Division of family services' calculation of assistance grant by applying percentage reduction factor to individual's standard of need, and then deducting net income and paying the difference, did not obscure actual need and was not a return to the "maximum grant method." *Garcia v. Jones*, 29 U. (2d) 409, 510 P. 2d 1099.

**55-15a-19. Deduction of income and resources.**—All income shall be deducted from the standard budget or from the standard grant, whichever is the lesser amount, except the office may establish policies to exempt the deduction of income and resources in accordance with the following provisions:

- (1) Expenses attributable to the earning of income.
- (2) Reasonable amounts to create incentives to seek employment.
- (3) Costs paid for special needs related to work projects.
- (4) Earned income specified in the Social Security Act.

History: L. 1973, ch. 122, § 19.

**55-15a-20. Payments to legal guardian or other interested individual—Assignment of check in case of death.**—When it appears necessary or advisable assistance may be paid to the legal guardian of the applicant or recipient.

The office is authorized to provide a money grant on behalf of an eligible recipient to another individual interested in or concerned with the welfare of such recipient but only when by reason of his physical or mental condition, the recipient is unable to manage funds or when direct payment to the recipient would be contrary to his welfare or when the office is so directed by federal requirements. The office shall undertake or contract with other state agencies to make special efforts to protect the welfare of recipients and improve their capacity for self-care. Periodic review of the condition of the recipient is required and when conditions change, payments to an individual other than the recipient shall be discontinued or when advisable, a legal guardian shall be appointed, whichever action best serves the interests and welfare of the recipient.

If a recipient dies after an assistance check is authorized or issued and before it is presented for payment, the office may assign and endorse such check to any designated person.

History: L. 1973, ch. 122, § 20.

**55-15a-21. Duty of recipient to notify office of income or resources.**—If during assistance the recipient is possessed of income or resources in excess of the amount previously reported by him, it is his duty to notify the office of this fact immediately.

History: L. 1973, ch. 122, § 21.

**55-15a-22. Residency.**—To qualify for assistance under this act, an applicant must be living in Utah voluntarily with the intention of making Utah his place of residence and not for a temporary purpose.

History: L. 1973, ch. 122, § 22.

Collateral References.

Paupers  $\S$  16 et seq.

70 C.J.S. Paupers § 20 et seq.

#### DECISIONS UNDER FORMER LAW

**One-year residency requirement unconstitutional.**

One-year residency requirement as a condition of eligibility for welfare assistance was unconstitutional denial of equal pro-

tection of the law and restriction on right to travel, whether applied to recipients under state or federally funded programs, or both. *Barnett v. Lindsay*, 319 F. Supp. 610.

**55-15a-23. Discrimination prohibited—Co-operation with civic, governmental and other organizations—Free choice of professional services.**—In the administration of programs:

(1) There shall be no discrimination based upon race, color, sex or national origin.

(2) The office shall co-operate with civic, governmental and other organizations assisting recipients and applicants.

(3) The office or any other governmental agency shall not interfere with any recipient's choice in the selection of a duly licensed practitioner to perform any medical or dental assistance or service provided in this act, nor shall any discrimination be allowed against optometrists or the profession of optometry on a parity with any other person or medical group licensed to render similar or like ocular services.

History: L. 1973, ch. 122, § 23.

**55-15a-24. Fraud in obtaining assistance—Penalties for violations—Assignment of alimony or support payments—Use of sums refunded.**—Any person who by means of a false statement or representation or by impersonation or other fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain assistance or other benefits to which he is not entitled or in a greater amount than that to which he is entitled, is guilty of a misdemeanor, if the amount of money or value of services obtained is less than \$300. If the money or value of services obtained equal or exceed \$300, the person is guilty of a felony. The office shall take all necessary steps including legal action, to recover money or other thing of value fraudulently obtained.

The office is authorized to accept an assignment of court ordered alimony or child support from any recipient of assistance. An assignment of alimony or support shall include payments ordered, decreed, or adjudged by any court within the state of Utah or any other state or territory of the United States and is not in lieu of or to supersede or alter any other court order, decree, or judgment. No assignment may be used as a requirement to establish eligibility for assistance if an applicant otherwise qualifies. When an assignment is executed the applicant or recipient is entitled to regular monthly assistance and the alimony or support paid the office is a refund. All sums refunded, except any amount which is required to be credited to the federal government, shall be retained by the office for use in the administration of this section and for other authorized activities. That for the purpose of this section an authorized activity shall be construed but not limited by definition to mean that the department may use the sums so refunded to obtain legal services through the offices of county attorneys deemed necessary by the department to enforce the provisions of this section, the provisions of 78-45-1 through 78-45-13, and the provisions of 78-45a-1 through 78-45a-17.

History: L. 1973, ch. 122, § 24.

**Collateral References.**

Paupers 53.

70 C.J.S. Paupers § 80.

Criminal liability in connection with application for, or receipt of, public relief or welfare payments, 92 A. L. R. 2d 421.

**55-15a-25. Appeals to department—Review and finality of decisions.**—Any applicant for, or recipient of assistance, food stamps, or medical assistance aggrieved because of a decision or delay in making a decision may appeal and is entitled to reasonable notice and a hearing. The department may, upon its own motion, review any decision of a local or

district office and consider and determine any application upon which a decision has not been made within a reasonable time. All decisions of the department are final and binding upon any local, district or state office.

History: L. 1973, ch. 122, § 25.

#### DECISIONS UNDER FORMER LAW

##### Hearing procedure.

"Fair hearing" procedure that did not provide for evidentiary hearing at which applicant would be given opportunity to appear with counsel, offer evidence and

confront and cross-examine witnesses failed to comport with due process requirements. *Barnett v. Lindsay*, 319 F. Supp. 610.

**55-15a-26. Examination of assistance payroll by individuals—Policies, rules and regulations relating to confidential information—Violation a misdemeanor—Statistical studies authorized.**—Any bona fide taxpayer who is a resident of the state of Utah may have access to a copy of any assistance payroll filed in the office. Information obtained from any assistance payroll shall not be used for any political or commercial purpose. It is unlawful to receive or publish any list of names, addresses, or grants of assistance recipients in any newspaper, magazine, periodical or other publication circulated for public information.

An individual who desires to examine an assistance payroll shall sign a statement provided by the office that the individual is a taxpayer and resident of this state and that any information obtained will not be used for any commercial or political purpose. No individual shall make any list of individuals, names, addresses or grant amounts to be taken out of the office.

The department shall after due consideration of the public interest define the nature of confidential information and establish rules and regulations governing the custody and disclosure of confidential information as well as access to assistance payrolls.

Any person that violates this section or the rules and regulations promulgated thereunder is guilty of a misdemeanor.

Nothing in this section prohibits the office or its agents, commissions, or agencies duly authorized for the purpose, from making special studies and issuing statistical material and reports of a general character or publishing or causing the same to be published, or to prohibit the office, its representatives or employees from conveying or providing written information to local, state, or federal governmental agencies that would affect an individual's eligibility or ineligibility for financial, service, or other beneficial programs offered by such local, state or federal agency.

History: L. 1973, ch. 122, § 26.

##### Collateral References.

Constitutionality, construction, and ef-

fect of statute or regulation relating specifically to divulgence of information acquired by public officers or employees, 165 A. L. R. 1302.

**55-15a-27. Enforcement of act—Duties of county attorney or attorney general.**—The office may take legal action necessary to enforce this act

and at the request of the office, it is the duty of the county attorney to represent the office in any legal actions. The county attorney or attorney general upon being advised of violation of this act shall institute legal proceedings necessary to enforce this act. If the county attorney fails to act within thirty days after request, the office may request the attorney general to act and he shall assume the responsibilities and carry the action forward in place of the county attorney.

History: L. 1973, ch. 122, § 27.

**55-15a-28. Collections under lien provisions—Excess property liens.—**

The office of assistance payments, through the office of administrative services, of the department of social services, is responsible for making collections of all funds due, or to become due the state under 55-15-30.

Excess property liens required in the various programs not transferred to the federal government shall remain a condition of eligibility in the assistance payments programs.

History: L. 1973, ch. 122, § 28.

**Repealing Clause.**

Section 29 of Laws 1973, ch. 122 provided: "Sections 55-15-1, 55-15-5, 55-15-6, 55-15-7, 55-15-9, 55-15-10, 55-15-12, 55-15-14, 55-15-17, 55-15-18, 55-15-19, 55-15-20, 55-15-21, 55-15-28, 55-15-33 and 55-15-35, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; sections 55-15-2.1, 55-15-3, 55-15-3.1 and 55-15-3.2, Utah Code Annotated 1953, as enacted by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-8, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 109, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-10.5, Utah Code Annotated 1953, as enacted by chapter 32, Laws of Utah 1971; section 55-15-11(1), Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-11(2), Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-29, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 110, Laws of Utah 1965, as amended by chapter 174, Laws of Utah 1967; sec-

tion 55-15-13, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 108, Laws of Utah 1963, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 197, Laws of Utah 1969; section 55-15-16, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967; sections 55-15-22 and 55-15-23, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969, as amended by chapter 197, Laws of Utah 1969; section 55-15-24, Utah Code Annotated 1953, as enacted by chapter 137, Laws of Utah 1971, as amended by chapter 19, Laws of Utah 1972; section 55-15-25, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 160, Laws of Utah 1969; section 55-15-26, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-27, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-31, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969; section 55-15-36, Utah Code Annotated 1953, as enacted by chapter 126, Laws of Utah 1961, as amended by chapter 174, Laws of Utah 1967, as amended by chapter 160, Laws of Utah 1969, as amended by chapter 136, Laws of Utah 1971, are repealed."



## CHAPTER 15b

## INDIVIDUAL AND FAMILY SERVICES

- Section 55-15b-1. Purpose of act.  
 55-15b-2. Definition of terms.  
 55-15b-3. Board of family services created within department of social services—Adoption of procedures, rules and regulations—Licensing of child-placing agencies—Establishment of subsidized adoption program.  
 55-15b-4. Board of family services—Members, appointment, qualifications, terms, vacancies—Chairman—Per diem allowance and expenses—State advisory committee—District and county advisory boards—Purpose of advisory boards.  
 55-15b-5. Division of family services created in department of social services—Powers and authority.  
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 55-15b-20. Enforcement of act—Duties of county attorney or attorney general.

**55-15b-1. Purpose of act.**—It is the purpose of this act to help people eligible for services to attain or retain capability for self-support, family or community based care, or appropriate institutional care; provide community planning and resource mobilization as a means of helping to remove barriers which prevent individuals from attaining or maintaining the maximum feasible level of personal and social functioning and independence; provide opportunity for each individual to become a contributing member of his community, and assure an adequate level of care for the infirm.

**History:** L. 1973, ch. 121, § 1.

**Title of Act.**

An act relating to the division of family services within the department of social services; providing for the re-establishment of the division of family services and defining its powers and responsibilities; providing for the appointment of a board of family services and defining its

powers and responsibilities; providing for the appointment of a director of the division and establishing his qualifications and responsibilities; providing the director of the department of social services with authority to accept in behalf of the state of Utah, participation in federal social service programs and to expend moneys or adapt procedure to comply with federal requirements; making it a felony

to defraud the division of over \$300 in moneys or services, and a misdemeanor if the value is less than \$300; making disclosure of confidential information a misdemeanor, and providing for enforcement of the criminal provisions.

**55-15b-2. Definition of terms.**—As used in this act:

(1) "Adoption services" means placing children for adoption, subsidizing adoptions, as provided in section 55-15b-3, supervising adoption placements until adoption is finalized by the court, making adoption studies and preparing adoption reports when petitioned by the court.

(2) "Applicant" means any person who requests family services under the terms of this act.

(3) "Board" means the board of family services.

(4) "Child care services" means care of a child for a portion of the day, but less than 24 hours, in his own home by a responsible person, or outside of his home in a family day care home, group day care home, or day care center.

(5) "Community-based care" means care in the community which approximates a home environment and is provided when living at home is not feasible and institutional care is inappropriate.

(6) "Community planning" means a co-operative effort of mobilizing, developing, and co-ordinating community agencies, groups, individuals and resources for the benefit of the consumer and others in the community.

(7) "Department" means the department of social services.

(8) "Division" means the division of family services.

(9) "Educational services" means helping individuals to compensate for the lack of formal education, through participation in literacy training, adult education, or education leading to the granting of a general education diploma; and with respect to a child, help in securing educational training most appropriate to his capacities, from available community resources.

(10) "Employment services (non-WIN)" means helping eligible individuals and families secure paid employment or training leading to paid employment, through vocational education, social and psychological diagnostic assessments to determine potential for job training or employment.

(11) "Family planning services" means social, educational, and medical services to limit voluntarily the family size or space the children.

(12) "Family services" are those activities and processes carried out by the family service agency which have as their purpose helping individuals, families, groups and communities to move toward their optimum well-being. Such activities serve primarily to enable individuals, families, groups and communities to understand and use their own resources, to find and use existing resources, to develop new community resources, and to contribute to positive social and institutional change.

(13) "Foster care services" means the placement of a child or adult in a foster family home, or appropriate group care facility, as a result of a voluntary request by the parent or other responsible relative, or as



the result of a judicial determination to the effect that continuation of care in the children's own home would be contrary to the welfare of such child; services needed by the child while awaiting placement; supervision of the child or adult while in foster care and supervision of the foster care home or facility.

(14) "Health related services" means helping individuals and families to identify health needs and to obtain needed health care.

(15) "Home management counseling" means counseling directed toward the improvement of daily living, including instruction and training in use of household budgets, maintenance and care of the home preparation of food, nutrition, consumer education, family life, child rearing, and health maintenance.

(16) "Homemaker service" means care of individuals in their own homes and helping individual caretaker relatives to overcome specific barriers to achievement of improved household and family management through the services of a trained homemaker.

(17) "Housing improvement services" means activities which assist individuals with: landlord-tenant relations, obtaining or retaining ownership of a home; relocation to more suitable housing; repair of substandard rental and owned homes; identification and correction of substandard housing conditions and code violation, including such hazards as inadequate and unsafe utilities, sewage disposal and lead paint.

(18) "Institutional care" means activities in a facility (institution) which provides appropriate care, protection, training, or treatment for persons for whom other forms of care are not feasible.

(19) "Protective services" means responding to instances and substantiating the evidences of neglect, abuse or exploitation of a child or infirm or disabled adult; helping individuals to recognize the causes thereof and strengthening their ability to provide acceptable care and where necessary to bring the situation to the attention of appropriate courts or law enforcement agencies.

(20) "Recipient" means any person who receives family services under the terms of this act.

(21) "Resource mobilization" means the process of generating, developing, or expanding existing and new community and agency resources to increase or improve the service inventory.

(22) "Self-care" means activities which secure and maintain maximum personal independence, self-determination and security for appropriate persons in a home environment, including assistance to children and youth in achieving their maximum potential for eventual independent living.

(23) "Self-support" means activities which secure and maintain the maximum level of employment and social independence for those individuals for whom it is feasible.

(24) "State plan(s)" means the written description of the social services payments and delivery system administered by the division with state and federal sanction.

(25) "Transportation services" means making it possible for an individual to travel (with escort service, if necessary) to and from community facilities and resources as part of a service plan.

(26) "Youth" means a person within the state who is eighteen years of age or older, who has not yet attained his twenty-first birthday.

(27) "Work incentive program (WIN)" means a conjoint Utah state employment service and department program of training and work for those persons in aid to families with dependent children cases who are sixteen years of age or over and for whom vocational training is found to be practical and available. The program is designed to equip these persons to become self-supporting.

History: L. 1973, ch. 121, § 2.

**55-15b-3. Board of family services created within department of social services—Adoption of procedures, rules and regulations—Licensing of child-placing agencies—Establishment of subsidized adoption program.**—There is created within the department a board of family services, which, except as otherwise provided in this act, shall assume all of the policy-making functions, powers, duties, rights, and responsibilities granted to the board by this act. The board shall be the policy-making body of the division of family services, the state industrial school and the state training school.

The board is charged with the duty and responsibility of determining and adopting all such procedures, rules and regulations as may be required or deemed necessary and advisable in order to perform the duties and functions conferred upon it by any law of this state. Such rules and regulations when adopted by a majority vote of the board, shall be binding upon the division and its state, district or local offices and shall be printed for the benefit of the legislature and the public in general.

The board is authorized to license division, district or local offices as child-placing agencies in accordance with chapter 8a of Title 55, in the receiving, acceptance, or providing custody or care of any child under eighteen years, temporarily or permanently, for the purpose of finding a person to adopt such child or placing the child temporarily or permanently in a home for adoption.

The board may establish a subsidized adoption program to provide financial support to persons who adopt physically or mentally handicapped, older or other hard-to-place children who immediately prior to their adoption were legal wards of the state. Such financial support may not exceed the amounts which similar services would cost the division if it were to provide or secure them for the child as the legal ward of the state.

History: L. 1973, ch. 121, § 3.

Collateral References.

Cross-Reference.

Paupers ~~6~~ 7, 8.

70 C.J.S. Paupers §§ 3, 11.

Creation of department of social services and boards and divisions within department, 63-35-3.

**55-15b-4. Board of family services—Members, appointment, qualifications, terms, vacancies—Chairman—Per diem allowance and expenses—State advisory committee—District and county advisory boards—Purpose of advisory boards.**—Upon the effective date of this act, the terms of office of the present members of the board shall expire. The new board shall be comprised of five members who shall be appointed by the governor, with the advice and consent of the senate. Not more than three of the members shall be from the same political party, at least one member shall be a woman, and one member shall be a present or former recipient of the benefits available under this act. Each member of the board shall be knowledgeable and interested in social service problems. Of the members first appointed to the board, the terms of office of two members shall expire on April 1, 1977, and the terms of the remaining three members shall expire on April 1, 1975. Their respective successors shall be appointed for terms of four years each. Vacancies occurring by reason of death, resignation or any other cause shall be filled by the appointment of another person by the governor, giving consideration to recommendations made by the board and with the advice and consent of the senate, for the unexpired term of the person whose office was vacated. The board shall elect a chairman on April 1 of each year from its membership.

Each member shall receive a \$25 per diem allowance and all actual and necessary expenses incurred in carrying out his official duties.

The board shall create a state advisory committee to advise them concerning all social services programs. At least one-third of the committee shall be appointed from recipients of services or from their representatives.

The department in consultation with county commissioners shall create district and/or county advisory boards of family services and develop and implement rules and regulations governing the number, membership and tenure of such advisory boards. Members of the advisory board shall be appointed by the board of county commissioners for a county advisory board, and by the respective boards of county commissioners if a regional advisory board is created.

The purpose of advisory boards is to obtain advice from community members, including minorities and consumers, and to interpret and explain the duties and operation of the office to the community, review rules and regulations of the department and their application to applicants and recipients, and make recommendation to the department for modification or change of rules and regulations. Such recommendations, when placed in writing before the department, shall be responded to in writing setting forth the reasons for adoption or not adopting the proposed recommendations.

Members of the district and/or county family services advisory boards shall be paid all necessary and actual expenses incurred in the performance of their official duties by family services.

Members of the district and county social service advisory boards may be paid all necessary and actual expenses incurred in the performance of their official duties by the division.

**History:** L. 1973, ch. 121, § 4.

**Compiler's Notes.**

Chapter 121 of Laws 1973 contained no effective date clause.

**55-15b-5. Division of family services created in department of social services—Powers and authority.**—There is created the division of family services, which shall be within the department under the administrative direction of the executive director of the department and under the policy direction of the board. The division shall be the individual and family services authority of the state of Utah and shall assume all of the functions, powers, duties, rights and responsibilities previously held by the division, except those which are assumed by the board and the department, and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

**History:** L. 1973, ch. 121, § 5.

**Cross-Reference.**

Creation of department of social services and boards and divisions within department, 63-35-3.

**55-15b-6. Division of family services—Duties and functions.**—The division shall:

(1) Administer all individual and family services including child welfare activities and all other service matters the legislature may assign to the division.

(2) Co-operate with the federal government in the administration of family service programs and other social service activities in which the federal government may participate.

(3) Provide for the compilation of necessary or desirable information, statistics and reports relative to family service matters in the state of Utah.

(4) Prepare and submit to the department of social services and the governor and the legislature of the state of Utah reports of the operation and administration of the division as required.

(5) Promote and enforce all laws for the protection of mentally defective, illegitimate, dependent, neglected and delinquent children, except laws in which administration is expressly vested in some other state department. To this end it shall co-operate with juvenile courts and all licensed child welfare agencies and institutions of a public or private character and shall take the initiative in all matters involving the interest of such children where adequate provisions have not already been made or are not likely to be made, and to make such expenditures as may be found necessary for the care and protection of such children.

(6) Provide shelter care for dependent, neglected, delinquent, and other children in need of temporary care and develop and promulgate standards for shelter care facilities.

(7) Govern, manage, operate, and administer the state industrial school, the state training school, and the federal WIN program.

(8) Purchase or rent such property and buildings as are required to provide services as are within the terms of this act.

(9) Co-operate with the office of assistance payments administration in meeting social and economic needs of individuals eligible for assistance, food stamps, and medical assistance.

(10) Purchase or provide services for children in need of day care or group home care. Division-operated day care centers or group homes (24 hour care) shall conform to law and licensing standards required of private agencies providing a similar service.

(11) Provide social services to adult recipients of any of the programs for which eligibility is determined by the office of assistance payments administration or the federal government.

(12) Perform such other duties and functions as may be required by law.

**History:** L. 1973, ch. 121, § 6.

**55-15b-7. Services provided by division—Contracts for provision or purchase of services—Claims for care and services.**—The division shall provide, as appropriate, services which include, but are not limited to, the following: adoptions, child care, educational employment, family planning, foster care for children and adults, health related, homemaker, home management, protective, special services for the blind, transportation, and work incentive program (WIN).

The division is authorized to purchase services by written contract for recipients, former recipients and potential recipients as they are defined by division regulations. Any services the division is responsible to provide may be purchased from another governmental agency or from a licensed or otherwise qualified private agency, when the provision for purchase of such services is included in an approved state plan, when they are not otherwise available without cost, and when they can be provided more economically or effectively by another agency than by the division.

In so far as possible, all contracts for the provision or purchase of services and rates of payment to providers of service shall be established on the basis of the state's fiscal year and shall remain uniform during the fiscal year. The terms of the contract shall include provisions for monitoring, evaluating, and administrative and other service costs.

Claims for all types of care and services, including foster care and other services purchased by the division for its clients shall be a claim against and shall be paid from the appropriations made to the division annually for services for the year in which the service is rendered.

All suppliers or providers of such service shall submit their billing to the division for such services within thirty days after the end of the fiscal year in which such service is concluded. Any claims received after this thirty-day period may be paid by the division only after having been approved by the board of examiners and the legislature.

The unexpended funds appropriated for individual and family services shall lapse as of August 31 of each year. Funds disbursed from this account shall be for services rendered prior to June 30.

**History:** L. 1973, ch. 121, § 7.

**55-15b-8. Director of division—Appointment—Qualifications.**—The director of the division shall be appointed by the board with the concurrence of the executive director of the department. The director shall serve under the administrative direction of the executive director of the department and shall be the executive and administrative head of the division and shall be a person who has completed a combination of higher education in an accredited college or university and experience in professional administration totaling at least eight years with social work education, an MSW degree, and having experience and training in social service programs.

**History:** L. 1973, ch. 121, § 8.

Division directors, appointment, removal, compensation, qualifications, 63-35-6.

**Cross-References.**

Council on alcoholism and drug programs, membership on, 63-43-5.

**55-15b-9. Director's power to administer oaths.**—The director of the division shall have the power to administer oaths for all purposes required in the discharge of his duties.

**History:** L. 1973, ch. 121, § 9.

**55-15b-10. Office of division—State, district or local offices—Staff employed by director.**—The division shall maintain the principal office of the division in Salt Lake City but may establish and maintain such state, district, or local offices within the state as may be necessary for the prompt and efficient performance of its duties. The director shall employ such staff under the merit system as is necessary to efficiently administer the division and discharge specified duties.

**History:** L. 1973, ch. 121, § 10.

**55-15b-11. Federal grants.**—The executive director of the department with the approval of the governor, may accept, in behalf of the state of Utah, and bind the state by such acceptance, any executive or legislative provisions that may be promulgated or enacted by the federal government or any agency thereof, whereby the state of Utah is invited, permitted or authorized to participate in the distribution, disbursement or administration of any funds or service, advanced, offered or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department of social services. Such funds are to be used for the purposes provided in this act and for the administration by the division. This includes, but is not limited to, co-operation with the United States Office of Economic Opportunity in the administration of Public Law 88-452, United States Department of Health, Education and Welfare in regard to administration of health, welfare, and social service programs,

and all other national or state agencies in the administration of any program of any nature which provides training or social services for the benefit of family service recipients and other low income residents of the state of Utah.

If any legislative or executive provisions of any national or state agency requires a modification or a revision in any factor of eligibility established by this act as a condition for participation by the state of Utah in any federal provision for services, or money, the executive director of the department is authorized to modify or change legal limitations to the extent necessary to qualify the state for participation in any federal or state program for providing training, services, or money.

If any executive or legislative provisions of the federal government shall require, as a condition to participation by the state of Utah in any fund or service, the executive director of the department may expend whatever funds are necessary out of moneys provided by the legislature for the use and disbursement by the department.

The division shall comply with and conform to all requirements of the Federal Social Security Act as amended, and to all orders, rules and regulations promulgated, made or adopted pursuant thereto when required as a condition to participation in any benefits under the Social Security Act. If any law passed by the legislature of the state of Utah is not in conformity with the Social Security Act or any rule or regulation of the federal government, the Social Security Act or federal rule or regulation shall take precedence over the part of the state law declared to be out of conformity.

**History:** L. 1973, ch. 121, § 11.

**Cross-Reference.**

**Compiler's Notes.**

Federal Assistance Management Program, 63-40-1 et seq.

Public Law 88-452, The Economic Opportunity Act of 1964, is compiled as 42 U.S.C. 2701, 2711 et seq.

**55-15b-12. Personnel training programs — Co-operation with federal government.**—The division, with the approval of the department, is authorized to co-operate with the federal government in a program of training personnel for a more effective and efficient operation of all programs under the administration of the division. To this end the division is authorized to receive funds from the federal government and to expend funds, either from state or federal sources for training personnel employed or preparing for employment in any program administered by the division as follows:

(1) Grants to public and other nonprofit institutions of higher learning to assist in the training of such persons.

(2) Establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as the division shall determine.

(3) Special courses of study or seminars of short duration conducted for such personnel by experts hired on a temporary basis for the purpose.

**History:** L. 1973, ch. 121, § 12.



**55-15b-13. Determination of eligibility for family services—Establishment of policies by board.**—The board shall establish the policies for determination of eligibility for family services. In establishing this policy, the board may take into consideration the following provisions:

- (1) The standard budget.
- (2) The poverty level, as established by the federal government.
- (3) Incentives for individuals to seek employment, vocational training, and other worthwhile objectives relating to self-support and self-improvement.
- (4) Specific needs related to vocational training and other educational activities which will improve and increase capacity for economic independence, self-care, money management, and to remove barriers to appropriate levels of functioning.
- (5) The division may assess a fee for group home care, voluntary foster care, homemaker service, and such other services as it deems appropriate when, in the judgment of the board, the applicant is capable of paying for all or part of the service.
- (6) Crisis and short-term social services to persons who do not otherwise qualify under the terms of this act, i.e., strikes, civil disorders, disasters, etc.
- (7) Financial assistance to eligible persons for special needs when the recipient has no other resources available, and the assistance is essential for their well-being in the community.
- (8) Present, former or potential applicants and recipients.
- (9) Subsidized adoptions.
- (10) Other unusual, extenuating, or special circumstances.

History: L. 1973, ch. 121, § 13.

**55-15b-14. Discrimination prohibited—Co-operation with civic, governmental and other organizations in self-help activities—Rehabilitation programs—Community centers for services—Multi-purpose service centers.**—In the administration of family services, the division shall:

- (1) Permit no discrimination based upon race, color, sex or national origin.
- (2) Co-operate with civic, governmental and other organizations assisting recipients and applicants in becoming self-sustaining by encouraging and supporting participation in programs of such organizations which offer rehabilitation and opportunity for self-help activities.
- (3) Have authority to develop rehabilitation programs to promote self-care, self-support, and to remove barriers to appropriate levels of functioning.
- (4) Have authority to develop and operate community centers for services, day care, nursing home care, group home care (24-hour), etc., for the protection and care of adults and children, and to rent, purchase or build facilities to carry out functions of such centers.

(5) Participate in multi-purpose service centers where such participation is in the best interest of the public and the agency.

History: L. 1973, ch. 121, § 14.

**55-15b-15. Gifts, grants, devises, and donations—Acceptance by division.**—The division is authorized to receive gifts, grants, devises and donations. Such gifts, grants, devises or donations or the proceeds therefrom shall be credited to the program which the donor designates and may be used for such purposes as the donor may request as long as the request conforms to state and federal policy. If a donor makes no specific request, the division may use the gift, grant, devise or donation as will be for the best interest of the division.

The division is authorized to:

(1) Accept and use volunteer labor or services of applicants, recipients and other members of the community; reimburse volunteers for necessary expenses, including transportation; provide recognition awards and recognition meals for services rendered; co-operate with volunteer organizations in the collection of funds to be used in the volunteer program. All donated funds shall be considered as private, non-lapsing funds until used by the division and may be invested under guidelines established by the state treasurer.

(2) Encourage merchants and providers of services to donate goods and services or to provide such at a nominal price or below cost.

(3) Distribute goods to applicants or recipients free or for a nominal charge. When the goods are sold, they are to be exempt from sales tax.

(4) Appeal to the public for funds to meet needs of applicants and recipients not otherwise provided for by law, such as Sub-for-Santa, recreational programs for children, household appliances, home repairs, etc., as may be provided in policy established by the board.

History: L. 1973, ch. 121, § 15.

**55-15b-16. Real or personal property of division or institution—Sale by division.**—The division, with the approval of the board, department, and the board of examiners, is authorized to sell on terms determined to be for the best interest of the state, any real property or personal property owned by the division or any state institution under the direction of the division and which is not needed by the division or institution.

History: L. 1973, ch. 121, § 16.

**55-15b-17. Fraud in obtaining social services—Authority of division to recover moneys or value of services—Violations—Penalties.**—When fraud is disclosed in the obtaining of social services, the division shall take all necessary steps, including legal action, to recover all moneys or the value of services fraudulently obtained.

Any person violating any of the provisions of this act or the lawful rules or regulations made hereunder shall be guilty of a misdemeanor if

the amount of money or value of services obtained is less than \$300. If the moneys or values of services obtained equal or exceed \$300, the person shall be guilty of a felony.

**History:** L. 1973, ch. 121, § 17.

**55-15b-18. Appeals to board—Procedures established by division—Review and finality of decisions.**—The division shall establish procedures to provide opportunity for a fair hearing under which applicants and recipients may appeal denial of or exclusion from a service program or failure to take account of recipient choice of a service and shall be entitled to an appeal before a representative of the board and shall be afforded reasonable notice and opportunity for a hearing. The results of the hearing shall be formally published and made available to the board. The board may also, upon its own motion, review any decision of a state, district or local office and may consider and determine any application upon which a decision has not been made by any such state, district or local office within a reasonable time. All decisions of the board shall be final and shall be binding upon and shall be complied with by the state, district or local offices of the division. All applicants and recipients shall be advised of their right to appeal and the procedures for such appeal.

**History:** L. 1973, ch. 121, § 18.

#### DECISIONS UNDER FORMER LAW

##### Hearing procedure.

"Fair hearing" procedure that did not provide for evidentiary hearing at which applicant was given opportunity to appear with counsel, offer evidence and

confront and cross-examine witnesses failed to comport with due process requirement. *Barnett v. Lindsay*, 319 F. Supp. 610.

**55-15b-19. Examination of family service payments by individuals — Policies, rules and regulations relating to confidential information—Violation a misdemeanor—Statistical studies authorized.**—Any individual who desires to examine any family service payment shall sign a statement in form prescribed by the division which must include the assertion that the individual is a taxpayer, a resident, and a commitment that any information obtained shall not be used for commercial or political purposes. No individual shall be permitted to make any partial or complete list of names, addresses, or amounts of social service payments to be taken out of the offices of the division.

The board shall after due consideration of the public interest define the nature of confidential information to be safeguarded and shall establish policies, rules and regulations governing the custody and disclosure of confidential information as well as providing access to social services payments, and such policies, rules, and regulations shall have the same force and effect as law.

Any person violating any of the provisions of this section excluding the activities of the board shall be guilty of a misdemeanor.

Nothing in this section shall be construed to prohibit the division or its agents, or individuals, commissions, or agencies duly authorized for the pur-

pose, from making special studies, and issuing statistical material and reports of a general character or publishing or causing the same to be published, or to prohibit the division, its representatives or employees from conveying or providing written information to local, state, or federal governmental agencies that would affect an individual's eligibility or ineligibility for financial, service, or other beneficial programs offered by such local, state, or federal governmental agencies.

**History:** L. 1973, ch. 121, § 19.

**Collateral References.**

Constitutionality, construction, and ef-

fect of statute or regulation relating specifically to divulgence of information acquired by public officers or employees, 165 A. L. R. 1302.

**55-15b-20. Enforcement of act—Duties of county attorney or attorney general.**—The division may take such legal action as may be necessary to enforce the provisions of this act and at the request of the division, it shall be the duty of the county attorney to represent the division in any legal actions. When the county attorney or attorney general is advised of the violation of any provision of this act, the county attorney or attorney general shall institute legal proceedings and such action as shall be necessary to enforce this act. In the event the county attorney shall fail to act within thirty days after a request has been placed with him, the division may request the attorney general to act and he shall assume the responsibilities and carry the action forward in place of the county attorney.

**History:** L. 1973, ch. 121, § 20.

**Law Review.**

Housing in Salt Lake County—A Place to Live for the Poor? 1972 Utah L. Rev. 193.

## CHAPTER 16

### REPORTING PHYSICAL ABUSE OF MINORS

- Section 55-16-1. Mandatory reporting of cases of physical injury of minors due to abuse or neglect—Intent of legislature.
- 55-16-2. Persons required to report physical injury of minors.
- 55-16-3. Procedure for making reports—Contents.
- 55-16-4. Immunity from liability of persons or institutions making reports.
- 55-16-5. Physician-patient privilege not ground for excluding evidence.
- 55-16-6. Penalty for violation.

**55-16-1. Mandatory reporting of cases of physical injury of minors due to abuse or neglect—Intent of legislature.**—In order to protect minors whose health and welfare may be adversely affected by the infliction of physical injury as a result of abuse or negligence, the legislature of the state of Utah provides for the mandatory reporting of such cases to the local city police or county sheriff or office of the division of family services by any person having cause to believe such case exists. It is the intent of the legislature that protective social services shall be made available in an effort to prevent further abuses or neglect and to safeguard and enhance the welfare of such children and to preserve family life whenever possible.

**History:** L. 1965, ch. 166, § 1; 1969, ch. 197, § 123.

**Compiler's Notes.**

The 1969 amendment substituted "division of family services" for "Utah state welfare department."

**Title of Act.**

An act for the mandatory reporting of cases of physical abuse of minors.

**Cross-Reference.**

Juvenile courts, search warrants authorized in cases of ill-treatment of children, 55-10-111.

**Collateral References.**

Infants ~~§~~ 13.

43 C.J.S. Infants § 11.

Protection from neglect, ill-treatment etc., 42 Am. Jur. 2d 21, Infants § 16.

**55-16-2. Persons required to report physical injury of minors.**—Any person having cause to believe that a minor has had physical injury as a result of unusual or unreasonable physical abuse or neglect shall report or cause reports to be made in accordance with the provisions of this act; provided that when the attendance of any person with respect to a minor is pursuant to the performance of services as a member of the staff or as an employee of a hospital or clinic or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall report or cause reports to be made in accordance with the provisions of this act.

**History:** L. 1965, ch. 166, § 2.

**55-16-3. Procedure for making reports—Contents.**—An oral report shall be made as soon as possible by telephone or otherwise and may be followed by a report in writing to the local city police or county sheriff or office of the division of family services. Such reports shall contain the name and address of the minor, if known by the person making the report, and any other information the person making the report believes might be helpful in establishing the cause of the injuries and identity of the perpetrator.

**History:** L. 1965, ch. 166, § 3; 1969, ch. 197, § 124.

**Compiler's Notes.**

The 1969 amendment substituted "division of family services" for "Utah state welfare department."

**55-16-4. Immunity from liability of persons or institutions making reports.**—Any person or institution making report in good faith pursuant to this act shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed. Any person or institution making a report in good faith pursuant to this act shall have the same immunity with respect to participation in any proceeding resulting from such report.

**History:** L. 1965, ch. 166, § 4.

**55-16-5. Physician-patient privilege not ground for excluding evidence.**—The physician-patient privilege shall not be a ground for excluding evidence regarding the minor's injuries or cause thereof in any proceeding resulting from a report made in good faith pursuant to this act.

**History:** L. 1965, ch. 166, § 5.

**55-16-6. Penalty for violation.**—Anyone knowingly or willfully violating the provisions of this act shall be guilty of a misdemeanor.

**History:** L. 1965, ch. 166, § 6.

## CHAPTER 17

### MANPOWER DEVELOPMENT

- Section 55-17-1. Purpose of act.  
 55-17-2. Manpower planning council created—Members.  
 55-17-3. Manpower planning council—Executive director, authority and compensation.  
 55-17-4. Manpower planning council—Development of comprehensive state plan—Participation in federal programs—Reorganization of state agencies.  
 55-17-5. Manpower planning council—Additional powers and functions.

**55-17-1. Purpose of act.**—The legislature finds that it is essential to the welfare of the people of Utah that action be taken by state government to more effectively and economically utilize state and federal funds for manpower training, work experience, placement, and other services. Further, that it is essential to (1) establish explicit priorities for the allocation of these funds to ensure that they are used to assist those in greatest need of manpower services; (2) to establish definitive goals for the total system of manpower training, work experience, placement, and other services to maximize the effectiveness of the system in assisting individuals to find and maintain gainful employment; (3) to enlist the full support of private industry in securing jobs for enrollees of manpower programs; (4) to integrate and co-ordinate efforts of federal, state, and local public and private agencies involved in performing manpower services; and (5) to develop new approaches for improved services and changes in traditional organizational patterns used to assist economically disadvantaged and undertrained individuals.

**History:** L. 1969, ch. 202, § 1.

**Title of Act.**

An act creating the Utah manpower

planning council, providing for its powers, providing for the appointment of an executive director, and appropriating \$30,000 from the general fund.

**55-17-2. Manpower planning council created—Members.**—(1) There is created the Utah manpower planning council, referred to hereinafter as "the council."

(2) The membership of the council shall consist of the following persons:

- (a) Executive director, Utah department of social services or director, department of health and welfare;
- (b) Director, division of family services or director of division of welfare;
- (c) Superintendent, Utah state board of education;
- (d) Director, division of vocation-technical education;
- (e) Director, office of rehabilitation services;

- (f) Director, division of adult basic education;
- (g) Administrator, Utah department of employment security;
- (h) Director, Utah state employment service;
- (i) Director, Utah office of economic opportunity;
- (j) Director, Utah co-ordinating council of higher education or the commissioner of higher education;
- (k) State planning co-ordinator who shall be the executive director;
- (l) Eight persons appointed by the governor, including at least one representative of employer groups, one representative of employee groups, one state senator and one state representative and at least one representative of minority groups.

One of the members appointed by the governor shall be designated as chairman of the council. State agency members of the council shall serve continuously until their successor in office is appointed. Public members of the council shall serve at the pleasure of the governor. All members shall serve without compensation.

**History:** L. 1969, ch. 202, § 2.

**55-17-3. Manpower planning council — Executive director, authority and compensation.**—The executive director shall be administratively responsible to the governor or to whomever the governor may direct, and shall have the authority to hire, contract for, and direct such secretarial, clerical, administrative and research staff as may be necessary to carry out the functions set forth in this act. It is the intent of the legislature that the executive director appointed by the governor shall be compensated at a rate commensurate with the salaries of major agency heads represented on the council. Subordinate staff members shall, where possible, be covered by the Utah state merit system.

**History:** L. 1969, ch. 202, § 3.

**55-17-4. Manpower planning council—Development of comprehensive state plan—Participation in federal programs—Reorganization of state agencies.**—The council shall be the primary manpower planning organization for Utah and shall have responsibility for developing a comprehensive manpower plan for the state of Utah. As such, the council shall act as the nucleus of the state CAMPS (co-operative area manpower planning system) committee and the state advisory committee for MDTA (Manpower Development and Training Act). The executive director of the council shall serve as chairman of the state CAMPS committee and the state advisory committee for MDTA. The council, by its own action, may appoint additional members to the state CAMPS committee or state advisory committee for MDTA, to appropriately meet federal statutes and guidelines. The council shall examine state manpower agencies and manpower training programs and develop policy suggestions for administrative, executive, and legislative action, including a detailed examination of the existing administrative structure providing manpower services. The council is specifically



charged to develop recommendations for appropriate reorganization of state agencies engaged in manpower programs for submittal to the next session of the Utah state legislature.

**History:** L. 1969, ch. 202, § 4.

**55-17-5. Manpower planning council—Additional powers and functions.**—Notwithstanding any provisions of law to the contrary, the manpower planning council shall have the following specific powers and functions:

(1) Formulate goals, objectives and policy to govern the development and administration of manpower programs in Utah;

(2) Evaluate the objectives, activities, budgets, delivery systems and staffing patterns of all state agencies engaged in manpower programs to determine program effectiveness, efficiency, duplication of effort, and deficiencies in service;

(3) Prepare a comprehensive manpower plan for Utah defining agency roles and allocating available resources to provide optimum manpower and skilled training to Utah's citizens requiring such services;

(4) Approve any modification of or new manpower program, including, but not limited to, staff organization and numbers, physical facilities, services offered, and interagency agreements;

(5) Review and approve all applications for federal assistance in manpower programs which require either state matching funds or state delivery of services;

(6) Direct that duplicating activities of one or more agencies be harmonized by requiring modification or termination of activities which are found to be duplicative.

The council is hereby empowered to receive and disburse federal funds and, in addition, may require, within reasonable limits, the contribution of staff from the agencies represented on the council to carry out its operations and investigations.

**History:** L. 1969, ch. 202, § 5.

**Appropriation.**

Section 6 of Laws 1969, ch. 202 pro-

vided: "There is hereby appropriated from the general fund the amount of \$30,000 to carry out the purposes of this act."

## CHAPTER 18

### HOUSING AUTHORITIES

Section 55-18-1.	Purpose of act.
55-18-2.	Definitions.
55-18-3.	Creation of housing authority authorized—Procedure.
55-18-4.	Indian housing authorities.
55-18-5.	State planning co-ordinator—Functions.
55-18-6.	Commissioners — Appointment — Terms — Quorum — Meetings — Employment of other officers and employees authorized.
55-18-7.	Officers and employees—Interest in projects or property prohibited—Exceptions.
55-18-8.	Misconduct of commissioners—Removal.